

Reconsideration of the above-identified application and entry of the proposed amendment is requested in view of the following remarks.

**REMARKS**

***Status of the Claims***

Claims 1-25 and 42-100 were previously cancelled.

Claims 103 and 104 have been cancelled herein without prejudice to or disclaim of the subject matter contained therein.

Claims 26-41 and 101-102 are pending. Claims 26, 35, 39 and 40 have been amended.

Claim 26 has been amended to include the limitation of claim 103. As such, support for the amendment to claim 26 can be found, *inter alia*, in now cancelled claim 103.

Claim 35 has been amended to include the limitation of claim 104. As such, support for the amendments to claim 35 can be found, *inter alia*, in now cancelled claim 104.

Claims 39 and 40 has been amended for clarification and to correct antecedent basis.

No new matter has been added.

Applicants respectfully request entry of the proposed amendments as it is believed that the proposed amendments place the claims in condition for allowance, or in the alternative, place the application in better condition for appeal.

***Rejections under 35 U.S.C. § 102***

The Examiner has rejected claims 35-38 and 102 under 35 U.S.C. §102(b) as being anticipated by Creighton et al. ("Stereoselective Meerwein-Ponndorf-Verley and Oppenauer Reactions Catalyzed by Zeolite Beta," *Journal of Molecular Catalysis A:Chemical*, 115 (1997), 457-472). Applicants respectfully traverse this rejection.

Applicants have herein amended claim 35 to include the limitations of claim 104. Claim 35 is now directed to a stabilized aluminosilicate zeolite catalyst "wherein said zeolite is promoted with a metal and said metal is copper or iron." See claim 35, as presently amended. Applicants note that claim 104 was not previously rejected under 35 U.S.C. §102(b) as being anticipated by Creighton et al. Furthermore, Applicants respectfully point out that Creighton et al. does not disclose a zeolite catalyst which is promoted with iron or copper.

As such, Applicants respectfully assert that Creighton et al. does not disclose all the claim limitations of claim 35, as presently amended. Therefore, claim 35 and claims 36-38 which depend therefrom are not and cannot be rendered obvious by Creighton et al.

Reconsideration and withdrawal of this rejection are respectfully requested.

***Rejections under 35 U.S.C. § 103***

The Examiner has rejected claims 26-31, 35-40, 101 and 102 under 35 U.S.C. §103(a) as being unpatentable over Gajda et al. (U.S. Pat. No. 5,522,984). Applicants respectfully traverse this rejection.

According to the Examiner, “Gajda et al. discloses an aluminosilicate zeolite beta having a peak at 3780 cm-1... [which] is treated with platinum and palladium.” See Office Action at page 3, fourth paragraph. Applicants have herein amended claim 26 to include the limitation of claim 103. As such, claim 26 is now directed to “[a] stabilized metal-promoted aluminosilicate zeolite... wherein said metal is copper or iron.” See claim 26, as presently amended. Applicants note that claim 103 was not previously rejected under 35 U.S.C. §103(a) as being unpatentable over Gajda et al. Furthermore, Applicants respectfully point out that Gajda et al. does not disclose or suggest a zeolite catalyst, which is promoted with copper or iron.

As discussed hereinabove, Applicants have herein amended claim 35 to include the limitations of claim 104. Claim 35 is now directed to a stabilized aluminosilicate zeolite catalyst “wherein said zeolite is promoted with a metal and said metal is copper or iron.” See claim 35, as presently amended. Applicants note that claim 104 was not previously rejected under 35 U.S.C. §103(a) as being unpatentable over Gajda et al. Furthermore, Applicants respectfully point out that Gajda et al. does not disclose or suggest a zeolite catalyst, which is promoted with copper or iron.

As such, Applicants respectfully assert that Gajda et al. does not disclose or suggest all the claim limitations presently claimed in claims 26 and 35. Therefore, claims 26 and 35, and the claims which depend therefrom, are not and cannot be rendered obvious over Gajda et al. “To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art.” See M.P.E.P § 2143.03, Eighth Edition, Rev. Aug. 2006 at page 2100-131 (emphasis added).

Reconsideration and withdrawal of this rejection are respectfully requested.

***Double Patenting Rejection***

The Examiner has rejected to claims 26-41 on the grounds of obviousness-double patenting over claims 10-25 of U.S. Pat. No. 6,914,026. Applicants respectfully traverse this rejection.

The '026 patent teaches and claims a specific form of iron having a characteristic FT-IR peak at  $3680 \pm 5 \text{ cm}^{-1}$ . This Fe(OH) peak is not claimed, disclosed or suggested in the present application. As the Examiner points out, claim 10 of the '026 patent claims a peak of  $3781 \pm 5 \text{ cm}^{-1}$ . However, claim 10 of the '026 patent is directed to “[a] stabilized iron-promoted aluminosilicate zeolite having FT-IR absorption peaks at  $3680 \pm 5 \text{ cm}^{-1}$  **and**  $3781 \pm 5 \text{ cm}^{-1}$ .” See claim 10 of the '026 patent (emphasis added). Again, the Fe(OH) peak of  $3680 \pm 5 \text{ cm}^{-1}$  is a specific form of iron not presently claimed, disclosed or suggested in the present application. Claim 10 of the '026 patent and the presently claimed invention are separate and distinct inventions. Moreover, the '026 patent discloses and claims a separate and distinct peak that characterizes the specific form of iron disclosed and claimed in the '026 patent. This separate and distinct peak is not a part of the presently claimed invention. As such, Applicants respectfully assert that the presently pending claims and those of the '026 patent are not directed to the same invention. Furthermore, Applicants have submitted herewith a terminal disclaimer over U.S. Pat. No. 6,689,709 (discussed hereinbelow). Applicants respectfully point out that the patent term of the '709 patent will run out prior to that of the '026 patent.

Reconsideration and withdrawal of this rejection are respectfully requested.


The Examiner has rejected to claims 26-41 on the grounds of obviousness-double patenting over claims 1-12 of U.S. Pat. No. 6,689,709.

Applicants submit herewith a terminal disclaimer over U.S. Pat. No. 6,689,709.

As such, Applicants believe this rejection has been rendered moot.

Respectfully submitted,

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Date

  
Phillip R. Kiefer  
Reg. No. 55,326

Frenkel & Associates, P.C.  
3975 University Drive, Suite 330  
Fairfax, VA 22030  
Telephone: (703) 246-9641  
Facsimile: (703) 246-9646